

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

UNITED STATES POSTAL SERVICE

and

**AMERICAN POSTAL WORKERS UNION,
AFL-CIO, VIRGINIA BEACH AREA LOCAL 1518**

**Cases 5-CA-36228
5-CA-36231
5-CA-36232
5-CA-36233
5-CA-36234
5-CA-36235
5-CA-36236
5-CA-36237
5-CA-36238
5-CA-36239
5-CA-36240
5-CA-36241
5-CA-36242
5-CA-36244**

DECISION AND ORDER

Statement of the Cases

On June 15, 2011, the United States Postal Service (the Respondent) and the Acting General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals.¹ The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act, as amended, and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

¹ The Charging Party declined to enter into the Formal Settlement Stipulation, and has filed objections to the Stipulation with the Regional Director. The Regional Director and the Acting General Counsel recommend approval of the settlement on the ground that it remedies all of the allegations in the consolidated complaint. We have carefully considered the Charging Party's objections to the settlement, and we find that it would effectuate the purposes and policies of the Act to approve the settlement agreement.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

Findings of Fact

1. The Respondent's business

The Respondent provides postal services for the United States and operates various facilities throughout the United States in the performance of that function, including its facilities in Virginia Beach, Virginia, referred to as the Acredale Station, Bayside Station, Lynnhaven Station, Londonbridge Station, Princess Anne Station, Seapines Station, and the Witchduck Station, the only facilities involved in this proceeding.

The Board has jurisdiction over the Respondent and this matter by virtue of Section 1209 of the Postal Reorganization Act.

2. The labor organization involved

At all material times, American Postal Workers Union, AFL-CIO (APWU), has been a labor organization within the meaning of Section 2(5) of the Act. At all material times, APWU Local 1518 has been a labor organization within the meaning of Section 2(5) of the Act.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board orders that:

The Respondent, United States Postal Service, Virginia Beach, Virginia, its officers, agents, successors and assigns, shall

1. Cease and desist from

(a) Failing and refusing to bargain collectively and in good faith with the American Postal Workers Union, AFL-CIO, through its designated agent, Virginia Beach Area Local 1518, as the exclusive representative of employees in the following appropriate unit, called the Unit:

All maintenance employees, motor vehicle employees, postal clerks, special delivery messengers, mail equipment shop employees, and

material distribution center employees employed by the United States Postal Service; excluding all professional employees, employees engaged in personnel work in other than a purely non-confidential clerical capacity, Postal Inspection Service employees, employees in the supplemental work force, rural letter carriers, mail handlers, letter carriers, guards and supervisors as defined in the Act.

(b) Failing and refusing to provide information to American Postal Workers Union, AFL-CIO, through its designated agent, Virginia Beach Area Local 1518, that it requested and needs for the performance of its duties as the exclusive collective-bargaining representative of the Unit.

(c) In any other way, interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form labor organizations, to join or assist the American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, or any other labor organization, to bargain collectively through representatives of their own choosing and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities.

2. Take the following affirmative action necessary to effectuate the policies of the Act

(a) Within 14 days of service by the Region, post at each of its Virginia Beach facilities, including the Acredale Station, Bayside Station, Lynnhaven Station, Londonbridge Station, Princess Anne Station, Seapines Station, and the Witchduck Station, copies of the attached Notice to Employees, marked "Appendix A." The Respondent shall post and maintain copies of the notice, which may include Notices in more than one language as deemed appropriate by the Regional Director, on forms provided by Region 5 and signed by the Respondent's authorized representative, for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material.

(b) Within 14 days of the Board's approval of this stipulation, the Respondent will provide, where it has not done so already and where such information exists, the following information regarding improper custodial routes to the American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518:

(1) the information requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about August 11, 2010, by written request to Joe Maguire at the Bayside Station: to review and copy as needed all PS 4839, 4852, and 4776 July 2010 custodial routes for job # LC-02 and LC-03;

(2) the information requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about August 11, 2010, by written request to Charles Thorns at the Princess Anne Station: to review and copy as

needed all PS 4839, 4852, and 4776 July 2010 custodial routes for job # LC-10, LC-11, and LC-13;

(3) the information requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about August 11, 2010, by written request to Matthew Pistrutto at the Acredale Station: to review and copy as needed all PS 4839, 4852, and 4776 July 2010 custodial routes for job # LC-01 and LC-12;

(4) the information requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about August 11, 2010, by written request to Timothy Talley at the Londonbridge Station: to review and copy as needed all PS 4839, 4852, and 4776 July 2010 custodial routes for job # LC-04 and LC-05.

(c) Within 14 days of the Board's approval of this stipulation, the Respondent will provide the following information regarding the failure to provide a union steward to K. Kirk requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about October 19, 2010, by written request to Richard Bennett, Jr.:

(1) identify in writing all operational constraints, if any, that management relied upon in the failure to provide the requested steward to K. Kirk on 10/16/10, 10/17/10, 10/18/10, and 10/19/10;

(2) if not operational, identify, in writing, the reason(s) management failed to provide the requested steward to K. Kirk on 10/16/10, 10/17/10, 10/18/10, and 10/19/10;

(3) copy as email attachment Employee Everything Report for all clerk craft employees at the Lynnhaven and Seapines Stations, window and distribution unit sections 10/16/10, 10/17/10, 10/18/10, and 10/19/10;

(4) review and copy as needed FLASH report, mail volumes received at Lynnhaven and Seapines, weekly clerk schedule, ODL (Overtime Desired List), PS 3971s for all Lynnhaven distribution clerks and Seapines clerks covering the period of 10/16/10, 10/17/10, 10/18/10, and 10/19/10.

(d) Within 14 days of the Board's approval of this stipulation, the Respondent will provide the following information regarding the failure to provide a union steward to W. Brunson requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about October 19, 2010, by written request to Richard Bennett, Jr.:

(1) identify in writing all operational constraints, if any, that management relied upon in the failure to provide the requested steward to W. Brunson, on 10/15/10, 10/16/10, 10/17/10, 10/18/10, and 10/19/10;

(2) if not operational, identify, in writing, the reason(s) management failed to provide the requested steward to W. Brunson on 10/15/10, 10/16/10, 10/17/10, 10/18/10, and 10/19/10.

(e) Within 14 days of the Board's approval of this stipulation, the Respondent will provide the following information regarding failure to provide steward time, requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about October 19, 2010, by written request to Richard Bennett, Jr.:

(1) identify in writing all operational constraints, if any, that management relied upon in the failure to provide the requested SDT (Steward Duty Time) on 10/19/10 between 05.00-11.00 and 15.00-17.00;

(2) if not operational, identify, in writing, the reason(s) management failed to provide the requested SDT on 10/19/10 between 05.00-11.00 and 15.00-17.00.

(f) Within 14 days of the Board's approval of this stipulation, the Respondent will provide the following information regarding failure to provide steward time, requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about October 19, 2010, by written request to Richard Bennett, Jr.:

(1) identify in writing all operational constraints, if any, that management relied upon in the decision to disapprove the requested SDT (Steward Duty Time) on 10/20/10 between 03.00-09.00;

(2) if not operational, identify, in writing, the reason(s) management failed to provide the requested SDT on 10/20/10 between 03.00-09.00;

(3) identify in writing all constraints and reasons why overtime is not available for the requested SDT on 10/20/2010.

(g) Within 14 days of the Board's approval of this stipulation, the Respondent will provide the following information regarding failure to provide steward time, requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about October 19, 2010, by written request to Richard Bennett, Jr.:

(1) identify in writing all operational constraints, if any, that management relied upon in the decision to disapprove or "to be determined," the requested SDT (Steward Duty Time) on 10/21/10 between 03.00-13.50;

(2) if not operational, identify, in writing, the reason(s) management failed to provide the decision to disapprove or "to be determined," the requested SDT on 10/21/10 between 03.00-13.50;

(3) identify in writing all constraints and reasons why overtime is not available for the requested SDT (Steward Duty Time) on 10/21/2010.

(h) Within 14 days of the Board's approval of this stipulation, the Respondent will provide the following information regarding failure to provide steward time, requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about October 19, 2010, by written request to Richard Bennett, Jr.:

(1) identify in writing all operational constraints, if any, that management relied upon in the decision to disapprove the requested SDT (Steward Duty Time) on 10/22/10 between 03.00-09.50;

(2) if not operational, identify, in writing, the reason(s) management failed to provide the requested SDT (Steward Duty Time) on 10/22/10 between 03.00-09.50;

(3) identify in writing all constraints and reasons why overtime is not available for the requested SDT (Steward Duty Time) on 10/22/2010.

(i) Within 14 days of the Board's approval of this stipulation, the Respondent will provide the following information regarding failure to provide steward time, requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about October 19, 2010, by written request to Richard Bennett, Jr.:

(1) identify in writing all operational constraints, if any, that management relied upon in the decision to disapprove the requested SDT (Steward Duty Time) on 10/23/2010;

(2) if not operational, identify, in writing, the reason(s) management failed to provide the requested SDT (Steward Duty Time) on 10/23/10;

(3) identify in writing all constraints and reasons why overtime is not available for the requested SDT (Steward Duty Time) on 10/23/10.

(j) Within 14 days of the Board's approval of this stipulation, the Respondent will provide the following information regarding failure to provide steward time, requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about October 19, 2010, by written request to Richard Bennett, Jr.:

(1) identify in writing all operational constraints, if any, that management relied upon in the failure to provide the requested SDT (Steward Duty Time) on 10/18/10;

(2) if not operational, identify, in writing, the reason(s) management failed to provide the requested SDT (Steward Duty Time) on 10/18/2010.

(k) Within 14 days of the Board's approval of this stipulation, the Respondent will provide, where it has not done so already and where such information exists, the following information regarding the bypass of overtime and the use of non-overtime desired list employees requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about October 22, 2010, by written request to Richard Bennett, Jr., Trina Henderson, and Robert Walker:

(1) copy as email attachment ETC Everything Report for all clerk craft employees at Lynnhaven and Seapines Station including window and distribution unit sections for Saturday 10/16/10 and ETC all clock rings for all clerks at Lynnhaven on 10/18/10 and 10/19/10;

(2) review and/or copy as needed ODL (Overtime Desired List) for Seapines Station and Lynnhaven Station;

(3) review and/or copy as needed all abolishments, reversions, and reassignments pertaining to K. Kirk within the last 6 months.

(l) Within 14 days of the Board's approval of this stipulation, the Respondent will provide the following information regarding crossing unit sections and bypass of Overtime Desired List requested by American Postal Workers Union, AFL-CIO, Virginia Beach Area Local 1518, on or about October 22, 2010, by written request to Richard Bennett, Jr., Trina Henderson, and Robert Walker: to review or copy as needed all PS 3189, and PS 3971s for the week of 10/16/10.

(m) Within 21 days of the Board's approval of this stipulation, the Respondent will file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply with the Order.

Dated, Washington, D.C., August 26, 2011.

Wilma B. Liebman, Chairman

Mark Gaston Pearce, Member

Brian E. Hayes, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
AN AGENCY OF THE UNITED STATES GOVERNMENT

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A
CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF
APPEALS

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union;
Choose representatives to bargain with us on your behalf;
Act together with other employees for your benefit and protection;
Choose not to engage in any of these protected activities.

In recognition of our employees' rights:

WE WILL NOT fail and refuse to bargain collectively in good faith with **AMERICAN POSTAL WORKERS UNION, AFL-CIO**, through its designated agent, **VIRGINIA BEACH AREA LOCAL 1518**, as the exclusive representative of our employees in the following unit:

All maintenance employees, motor vehicle employees, postal clerks, special delivery messengers, mail equipment shop employees, and material distribution center employees employed by the United States Postal Service; excluding all professional employees, employees engaged in personnel work in other than a purely non-confidential clerical capacity, Postal Inspection Service employees, employees in the supplemental work force, rural letter carriers, mail handlers, letter carriers, guards and supervisors as defined in the Act.

WE WILL NOT fail and refuse to provide information to **AMERICAN POSTAL WORKERS UNION, AFL-CIO** through its designated agent, **VIRGINIA BEACH AREA LOCAL 1518**, that it requested and needs for the performance of its duties as exclusive collective-bargaining representative.

WE WILL provide, where we have not done so already and where such information exists, to **AMERICAN POSTAL WORKERS UNION, AFL-CIO**, through its designated agent, **VIRGINIA BEACH AREA LOCAL 1518**, the following relevant and necessary information that it requested on the following dates as the bargaining representative of employees in the unit set forth above:

Requested on August 11, 2010:

- review and copy as needed all PS 4839, 4852, and 4776 July 2010 custodial routes for job # LC-02 and LC-03;
- review and copy as needed all PS 4839, 4852, and 4776 July 2010 custodial routes for job #LC-10, LC-11, and LC-13;
- review and copy as needed all PS 4839, 4852, and 4776 July 2010 custodial routes for job # LC-01 and LC-12;
- review and copy as needed all PS 4839, 4852, and 4776 July 2010 custodial routes for job # LC-04 and LC-05.

Requested on October 19, 2010:

- identify in writing all operational constraints, if any, that management relied upon in the failure to provide the requested steward to K. Kirk on 10/16/10, 10/17/10, 10/18/10, and 10/19/10;
- if not operational, identify, in writing, the reason(s) management failed to provide the requested steward to K. Kirk on 10/16/10, 10/17/10, 10/18/10, and 10/19/10;
- copy as email attachment Employee Everything Report for all clerk craft employees at Lynnhaven and Seapines Station, window and distribution unit sections 10/16/10, 10/17/10, 10/18/10, and 10/19/10;
- review and copy as needed FLASH report, mail volumes received at Lynnhaven and Seapines, weekly clerk schedule, ODL (Overtime Desired List), PS 3971s for all Lynnhaven distribution clerks and Seapines clerks covering the period 10/16/10, 10/17/10, 10/18/10, and 10/19/10;
- identify in writing all operational constraints, if any, that management relied upon in the failure to provide the requested steward to W. Brunson on 10/15/10, 10/16/10, 10/17/10, 10/18/10, and 10/19/10;
- if not operational, identify, in writing, the reason(s) management failed to provide the requested steward to W. Brunson on 10/15/10, 10/16/10, 10/17/10, 10/18/10, and 10/19/10;
- identify in writing all operational constraints, if any, that management relied upon in the failure to provide the requested SDT (Steward Duty Time) on 10/19/10 between 05.00-11.00 and 15.00-17.00;
- if not operational, identify, in writing, the reasons(s) management failed to provide the requested SDT on 10/19/10 between 05.00-11.00 and 15.00-17.00;
- identify in writing all operational constraints, if any, that management relied upon in the decision to disapprove the requested SDT (Steward Duty Time) on 10/20/10 between 03.00-09.00;
- if not operational, identify, in writing, the reason(s) management failed to provide the requested SDT on 10/20/10 between 03.00-09.00;
- identify in writing all constraints and reasons why overtime is not available for the requested SDT on 10/20/2010;

- identify in writing all operational constraints, if any, that management relied upon in the decision to disapprove or “to be determined,” the requested SDT (Steward Duty Time) on 10/21/10 between 03.00-13.50;
- if not operational, identify, in writing, the reason(s) management failed to provide the decision to disapprove or “to be determined,” the requested SDT on 10/21/10 between 03.00-13.50;
- identify in writing all constraints and reasons why overtime is not available for the requested SDT (Steward Duty Time) on 10/21/2010;
- identify in writing all operational constraints, if any, that management relied upon in the decision to disapprove the requested SDT (Steward Duty Time) on 10/22/10 between 03.00-09.50;
- if not operational, identify, in writing, the reason(s) management failed to provide the requested SDT (Steward Duty Time) on 10/22/10 between 03.00-09.50;
- identify in writing all constraints and reasons why overtime is not available for the requested SDT (Steward Duty Time) on 10/22/2010;
- identify in writing all operational constraints, if any, that management relied upon in the decision to disapprove the requested SDT (Steward Duty Time) on 10/23/10;
- if not operational, identify, in writing, the reason(s) management failed to provide the requested SDT (Steward Duty Time) on 10/23/10;
- identify in writing all constraints and reasons why overtime is not available for the requested SDT (Steward Duty Time) on 10/23/10;
- identify in writing all operational constraints, if any, that management relied upon in the failure to provide the requested SDT (Steward Duty Time) on 10/18/10;
- if not operational, identify, in writing, the reason(s) management failed to provide the requested SDT (Steward Duty Time) on 10/18/2010.

Requested on October 22, 2010:

- copy as email attachment ETC Everything Report for all clerk craft employees at Lynnhaven and Seapines Station including window and distribution unit sections for Saturday 10/16/10 and ETC all clock rings for all clerks at Lynnhaven on 10/18/10 and 10/19/10;
- review and/or copy as needed ODL (Overtime Desired List) for Seapines Station and Lynnhaven Station;
- review and/or copy as needed all abolishments, reversions, and reassignments pertaining to K. Kirk within the last 6 months;
- review or copy as needed all PS 3189, and PS 3971s for the week of 10/16/10.

WE WILL NOT in any other way interfere with, restrain, or coerce our employees in the exercise of their rights as guaranteed in Section 7 of the Act.

UNITED STATES POSTAL SERVICE

(Respondent)